

REMARKS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance.

I. STATUS OF CLAIMS AND FORMAL MATTERS

Claims 1 and 2 are pending in this application. Claim 1 is amended, without prejudice.

No new matter is added by these amendments.

It is submitted that these claims, as originally presented, were in full compliance with the requirements of 35 U.S.C. §112. The amendments and remarks herewith are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103, or §112. Rather, the amendments and remarks are made simply for clarification and to round out the scope of protection to which Applicants are entitled. Support for the amendment to claim 1 is found throughout the specification and from the pending claims.

II. 35 U.S.C. §112, SECOND PARAGRAPH, REJECTION

Claim 1 was rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. The amendment claim 1 renders the rejection moot.

Consequently, reconsideration and withdrawal of the Section 112, second paragraph, rejection are respectfully requested.

III. 35 U.S.C. §103 REJECTION

Claims 1 and 2 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 6,216,016 to Cronin in view of U.S. Patent No. 6,167,251 to Segal et al. Applicants disagree. There is no motivation to combine the Cronin and Segal patents.

Segal relates to a **keyless** portable cellular phone system, wherein a voice recognition system allows the user to place and receive calls. Segal distinguishes its keyless invention with conventional phones throughout its specification, for example in column 9, lines 43-53.

Cronin, by contrast, relates to what Segal would consider a “conventional” phone. That is, Cronin relates to a portable device having a radio transceiver, a keypad, and a cordless radio base station. Thus, Cronin and Segal teach away from each other, thereby negating any motivation to combine.

The Examiner’s belief that Segal arguably provides for an external memory unit does not negate the inherent deficiencies in the cited documents. It is well-settled that picking and choosing portions from disparate references in order to formulate an obviousness rejection is impermissible.

Against this background, none of the cited documents render Applicants’ invention unpatentable. As explained above, the documents are disparate, teach away from each other, and would repel a skilled artisan from even considering a combination in order to practice the instantly claimed invention.

Further, “obvious to try” is not the standard upon which an obviousness rejection should be based. *See In re Fine*. And as “obvious to try” would be the only standard that would lend the Section 103 rejection any viability, the rejection must fail as a matter of law. Therefore, applying the law to the instant facts, the rejection is fatally defective and should be removed.

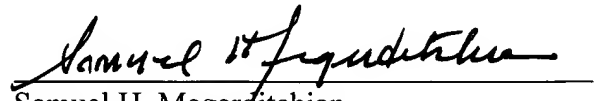
Consequently, reconsideration and withdrawal of the Section 103 rejection are believed to be in order and such actions are respectfully requested.

CONCLUSION

In view of the foregoing amendments, it is believed that claims 1 and 2 are patentable,
and early and favorable consideration thereof is solicited.

Respectfully submitted,
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